

## UTILITIES DIVISION[199]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to Iowa Code sections 17A.4, 476.2, 476.8, 476.86, 476.87, 478.19, and 479.4, the Utilities Board (Board) gives notice that on October 10, 2013, the Board issued an order in Docket No. RMU-2013-0001, In re: Updates and Corrections of Rules Establishing Natural Gas and Electric Safety Standards [199 IAC Chapters 10, 15, 19, 20, 25, and 45] and Amendment to Competitive Natural Gas Provider Rules to Address Compressed Natural Gas Providers [199 IAC 19.14], “Order Commencing Rule Making,” proposing to update the safety standards adopted for utilities providing natural gas and electric service, make certain corrections to the Board’s safety standards rules, and make revisions to the Board’s safety rules regarding cogeneration facilities. In addition, the Board proposes to amend the competitive natural gas provider (CNGP) rules to establish separate requirements for vehicle fuel providers (VFPs).

The safety standards in 199 IAC Chapters 10, 15, 19, 20, 25, and 45 are designed to ensure facilities that provide service to the public under the Board’s jurisdiction comply with federal statutes and regulations and other national standards addressing the safety of these facilities. The CNGP rules establish filing requirements for companies applying to provide competitive natural gas service as required by Iowa Code sections 476.86 and 476.87, and the Board is proposing streamlined requirements for VFPs.

Board Safety and Engineering Section staff periodically review the electric and gas technical standards that are incorporated by reference in the Board’s rules and which the Section uses when it inspects the operations and facilities of public utilities. Since the standards change periodically, updates and corrections to the standards in the Board’s rules are necessary from time to time. The Board is proposing amendments to the natural gas and electric safety standards in its rules based upon changes to those standards that have occurred since the last amendments were adopted.

The proposed changes are primarily updates of technical standards incorporated by reference. Of particular importance is the renewal of the adoption date of the federal pipeline safety standards. Timely adoption of amendments to the federal standards is a factor in the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA) performance score upon which the agency’s pipeline safety grant is based. The Board may be unable to enforce current federal standards it has not yet adopted. For adoption of federal regulations, the proposed amendments provide for insertion of the latest possible date by which the amendments can become effective. This practice ensures the Board will adopt the most current amendments to federal standards and is consistent with prior rule makings concerning the updating of standards. Amendments to rules adopting safety standards for cogeneration facilities in 199 IAC Chapters 15 and 45 are also proposed.

In addition to updating natural gas safety standards, the Board is proposing to incorporate in 199 IAC 19.5(2) new PHMSA reporting requirements in 49 CFR Parts 192 and 199 that are not included in this subrule. Currently, 199 IAC 19.5(2) only applies to regulated utility companies. Other natural gas pipeline operators subject to Board jurisdiction under Iowa Code chapter 479 have a similar reporting requirement in rule 199 IAC 10.17; however, this provision only addresses accident and incident reports required by 49 CFR Part 191. The provision does not include annual and other reports required by 49 CFR Part 191 or other reports required by 49 CFR Part 192 or 199. The Board is proposing to amend 199 IAC 10.17 to require that nonutility pipeline operators file copies of any required federal report with the

Board. This is particularly important because PHMSA expects that the Board will review these reports for completeness and accuracy as part of the Board's pipeline safety grant-funded activities.

The Board has decided not to adopt the updated version of the American Society of Mechanical Engineers (ASME) standard in ASME B31.8, "Gas Transmission and Distribution Piping Systems." The federal listing of standards, which PHMSA incorporates by reference in its regulations, continues to use the 2007 edition. PHMSA has not adopted either the 2010 or 2012 edition, and the Board considers it important for these safety standards to be consistent with the standards adopted in the federal regulations.

In 199 IAC 20.5(2) and 15.10(1)"c," Board rules refer to the 2008 edition of the National Fire Protection Association (NFPA) standards in NFPA 70, the National Electrical Code (NEC), which is applicable to customer-owned wiring. The Iowa Electrical Licensing and Inspection Program, part of the State Fire Marshal's office, is responsible for inspection of customer-owned wiring, and since the Board's last rule making to update standards, the State Fire Marshal has adopted the 2011 edition. The Board proposes to amend its rules to recognize the same edition as that adopted by the State Fire Marshal.

In 199 IAC Chapter 25, recent changes to the National Electrical Safety Code (NESC) have eliminated the need for one clarifying subrule. Also, when the 2012 NESC was first released, it had errors in the drawings and formulas used to determine required clearances from grain bins, and a correction sheet was issued. Utilities frequently include those drawings and formulas in the annual grain bin public information campaigns required by 199 IAC 25.2(3). To prevent confusion or error, the Board proposes to amend its rules to specify that utilities use the corrected versions of the NESC drawings and formulas.

In Iowa Code section 476.86, a "[c]ompetitive natural gas provider" means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa." Also in Iowa Code section 476.86, an "[a]ggregator" means a person who combines retail end users into a group and arranges for the acquisition of competitive natural gas services without taking title to those services." Board rules refer to both competitive natural gas providers and aggregators as CNGPs.

The Board has determined that VFPs providing compressed natural gas for use in motor vehicles come within the definition of a competitive natural gas provider and potentially within the definition of an aggregator. Since compressed natural gas vehicle fueling service is provided to individual customers, compressed natural gas service provided by VFPs meets the requirements for providing service to small-volume customers under Board rules.

A person wishing to provide compressed natural gas vehicle fueling service must have a Board CNGP certificate. To receive a Board CNGP certificate, the person must file an application with the Board pursuant to 199 IAC 19.14(3). Current application requirements are designed for aggregators, marketers, and other companies that help customers purchase natural gas from producers and transport natural gas over pipelines. Subrule 19.14(3) requires additional financial information as well as technical and managerial information for applicants requesting certificates to provide CNGP service to small-volume customers. These additional requirements currently apply to compressed natural gas vehicle fueling service since owners of compressed natural gas vehicles are small-volume customers.

Even though the offering of compressed natural gas vehicle fueling service has been widely publicized, the Board has only granted certificates to three VFPs at this time. However, the Board has been informed that there are other providers, including groups of independently owned gasoline station operators, that may desire to offer compressed natural gas vehicle fueling service. This increased interest in providing compressed natural gas vehicle fueling service shows the Board that competition may be sufficient to establish a more streamlined process for those persons who request CNGP certificates to provide compressed natural gas vehicle fueling service. The amendments are also designed to apply to other types of natural gas vehicle fuel providers.

To address the increased competition in the vehicle fueling market and to streamline the application process, the Board is proposing the amendments to its CNGP rules to establish a different set of requirements for applications to provide VFP service. These requirements will focus on the entity proposing to offer the service, the location of the service, contact information in case of problems or emergencies, and compliance with other state agency rules and regulations. The proposed amendments will not require financial information from the VFP since competition should determine which of the

providers will continue to offer the service and the Board anticipates that customers will have a choice of VFPs for service.

The order approving this Notice of Intended Action can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2013-0001.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before December 3, 2013. The statement should be filed electronically through the Board's Electronic Filing System. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

An opportunity for interested persons to present oral comments on the proposed amendments will be held at 9:30 a.m. on December 18, 2013, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will have a beneficial effect on the safety and reliability of natural gas and electric service in Iowa. Safe and reliable electric service is a necessity for economic development, so the proposed amendments will have a beneficial effect on jobs in Iowa, although that effect cannot be quantified. In addition, the proposed amendments to the competitive natural gas rules to streamline the application process for VFPs will increase the opportunity for providers to begin offering compressed natural gas vehicle fueling service to Iowa customers.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.8, 476.86, 476.87, 478.19, and 479.4.

The following amendments are proposed.

ITEM 1. Amend subrule 10.12(1) as follows:

**10.12(1)** All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

a. 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through ~~June 22, 2011~~ [effective date of this amendment].

b. 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through ~~June 22, 2011~~ [effective date of this amendment].

c. 49 CFR Part 199, "Drug and Alcohol Testing," as amended through ~~June 22, 2011~~ [effective date of this amendment].

d. ASME B31.8 - 2007, "Gas Transmission and Distribution Piping Systems."

e. 199—Chapter 9, "Restoration of Agricultural Lands During and After Pipeline Construction."

f. At railroad crossings, 199—42.7(476), "Engineering standards for pipelines."

Conflicts between the standards established in paragraphs 10.12(1)"a" through "f" or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 2. Amend rule 199—10.17(479) as follows:

**199—10.17(479) Accidents and incidents. Reports to federal agencies.** Any pipeline incident or accident which is reportable to the U.S. Department of Transportation under 49 CFR Part 191 as amended through ~~June 22, 2011~~, shall also be reported to the board, except that the minimum economic threshold of damage required for reporting to the board is \$15,000. Duplicate copies of any written accident reports

and safety-related condition reports submitted to the U.S. Department of Transportation shall be provided to the board.

**10.17(1)** Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, a copy of the report shall be filed with the board. The board shall also be advised of any telephonic incident report made.

**10.17(2)** In addition to incident reports required by 49 CFR Part 191, the board shall be notified of any incident or accident where the economic damage exceeds \$15,000 or which results in loss of service to 50 or more customers.

**10.17(3)** Utilities operating in other states shall provide to the board data for Iowa only.

ITEM 3. Amend subrule 15.10(1) as follows:

**15.10(1) Acceptable standards.** The interconnection of qualifying facilities and AEP facilities and associated interconnection equipment to an electric utility system shall meet the applicable provisions of the publications listed below:

a. Standard for Interconnecting Distributed Resources with Electric Power Systems, ANSI/IEEE Standard 1547-2003. For guidance in applying IEEE Standard 1547, the utility may refer to:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-1992; and

(2) IEC/TR3 61000-3-7 Assessment of Emission Limits for Fluctuating Loads in MV and HV Power Systems.

b. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

c. National Electrical Code, ANSI/NFPA 70-2008 2012.

ITEM 4. Amend paragraph **19.2(5)“g”** as follows:

g. *Reports to federal agencies.* Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, as amended through June 22, 2011 [effective date of this amendment], “~~Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,~~” shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

ITEM 5. Amend subrule 19.5(2) as follows:

**19.5(2) Standards incorporated by reference.**

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through June 22, 2011 [effective date of this amendment].

(2) 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through June 22, 2011 [effective date of this amendment].

(3) 49 CFR Part 193, “Liquefied Natural Gas Facilities: Federal Safety Standards,” as amended through June 22, 2011 [effective date of this amendment].

(4) 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through June 22, 2011 [effective date of this amendment].

(5) ASME B31.8 - 2007, “Gas Transmission and Distribution Piping Systems.”

(6) NFPA 59-2008, “Utility LP-Gas Plant Code.”

(7) At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2009 2012, “National Fuel Gas Code.”

(2) NFPA 501A-2009 2013, “Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.”

ITEM 6. Adopt the following **new** definition of “Vehicle fuel provider” in subrule **19.14(1)**:

“*Vehicle fuel provider*” or “*VFP*” means a person who owns or operates facilities to sell natural gas for vehicle fueling only. VFPs are CNGPs.

ITEM 7. Amend subrule 19.14(3) as follows:

**19.14(3) *Filing requirements, ~~and~~ application process, and exception.***

*a.* Applications shall be made in the format and contain all of the information required in 199—subrule 2.2(18). Applications ~~must~~ shall be filed ~~with the executive secretary at Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069~~ electronically in compliance with the provisions of 199—Chapter 14. ~~An original and ten copies must be filed.~~ An application fee of \$125 ~~must be included with the application~~ is required to be paid to the board at the time the application is filed to cover the administrative costs of accepting and processing a filing. The application fee shall be sent to the executive secretary at the Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. In addition, each applicant ~~will~~ may be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

*b.* Applicants for a certificate to provide natural gas vehicle fueling service as a VFP are not required to file the information in 199—subrule 2.2(18). Applicants for a certificate to provide natural gas vehicle fueling service only will be provided an application by the board. The application describes the information that is required to be provided.

*c.* An applicant shall notify the board during the pendency of the certification ~~request~~ process of any material change in the representations and commitments required by this subrule within 14 days of such change. Any new legal actions or formal complaints as identified in ~~199 IAC 199—subrule 2.2(18), numbered paragraph “4,”~~ are considered material changes in the request. Once certified, CNGPs, including VFPs, shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.

ITEM 8. Amend subrule 20.5(2) as follows:

**20.5(2) *Standards incorporated by reference.*** The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

*a.* Iowa Electrical Safety Code, as defined in 199—Chapter 25.

*b.* National Electrical Code, ANSI/NFPA 70-2008 2011.

*c.* American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.

*d.* American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-~~2006~~ 2011.

*e. to h.* No change.

ITEM 9. Amend subrule 25.2(1) as follows:

**25.2(1) *National Electrical Safety Code.*** ~~The American National Standards Institute (ANSI) C2-2007 “National Electrical Safety Code” (NESC) as ultimately conformed to the ANSI approved draft by correction of publishing errors through issuance of printed corrections is adopted as part of the Iowa electrical safety code, except Part 4, “Rules for Operation of Electric Supply and Communications Lines and Equipment,” which is not adopted by the board.~~ The American National Standards Institute (ANSI) C2-2012 “National Electrical Safety Code” (NESC), including issued Correction Sheets, is adopted as part of the Iowa electrical safety code, except Part 4, “Rules for Operation of Electric Supply and Communications Lines and Equipment,” which is not adopted by the board.

ITEM 10. Amend paragraph **25.2(2)“a”** as follows:

*a.* Introduction to the National Electrical Safety Code.

(1) ~~The following paragraph replaces NESC 011B: “The National Electrical Safety Code (NESC) covers utility facilities and functions from the point of generation by the utility, or delivery from another entity, of electricity or communications signals through the utility system to the point of delivery to a customer’s facilities.”~~

(2) NESC 013A2 is modified to read as follows: “Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where:

“1. Qualified supervision is provided,

“2. Equivalent safety is provided,  
“3. On joint-use facilities, ~~all affected parties agree~~ all joint users are notified in a timely manner,  
and

“4. Prior approval is obtained from the Iowa utilities board.”

ITEM 11. Amend subparagraph **25.2(2)“b”(4)** as follows:

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through ~~2007~~ 2012 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through ~~2007~~ 2012 editions of the NESC.)

ITEM 12. Amend subrule 25.2(3) as follows:

**25.2(3) Grain bins.**

a. Electric utilities shall conduct annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines. Where drawings and formulas from the NESC are used as part of public information campaigns, they are to be based on the “Errata to 2012 Edition National Electrical Safety Code” Correction Sheet issued February 6, 2012.

b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by the American National Standards Institute (ANSI)C2-~~2007~~ 2012 “National Electrical Safety Code,” Rule 234F. This paragraph “b” shall apply only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

ITEM 13. Amend subrule 25.2(5) as follows:

**25.2(5) Other references adopted.**

a. The “National Electrical Code,” ANSI/NFPA 70-~~2008~~ 2011, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in ~~661 IAC 661—~~504.1(103).

b. “The Lineman’s and Cableman’s Handbook,” ~~Eleventh~~ Twelfth Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the “National Electrical Safety Code” or “National Electrical Code,” and for developing the inspection and maintenance plans required by ~~499 IAC 199—~~25.3(476,478).

ITEM 14. Amend subrule 25.3(5) as follows:

**25.3(5) Guidelines.** Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, 1730B-121, and 1724E-300 and “The Lineman’s and Cableman’s Handbook” are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-~~2004~~ 2013, “Pruning,” and Section 35 of “The Lineman’s and Cableman’s Handbook” are suggested as guides for tree trimming practices.

ITEM 15. Amend rule ~~199—~~**45.1(476)**, definitions of “Nationally recognized testing laboratory” and “UL Standard 1741,” as follows:

“*Nationally recognized testing laboratory*” or “*NRTL*” means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration’s (OSHA) regulations. See 29 CFR 1910.7 (~~July 31, 2000~~) as amended through [effective date of this amendment]. NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in its NRTL program.

“*UL Standard 1741*” means the standard titled “Inverters, Converters, and Controllers for Use in Independent Power Systems,” ~~November 7, 2005~~ January 28, 2010, edition, Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096.